

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CRYOVAC, INC.,

Plaintiff,

v.

PECHINEY PLASTIC PACKAGING INC.,

Defendant.

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)
) **REDACTED PUBLIC COPY**
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)
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) C.A. No.: 04-1278-KAJ
)
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) ~~**CONFIDENTIAL -**~~
) ~~**FILED UNDER SEAL**~~
)
)

DECLARATION OF JEFFREY GARDNER

I, Jeffrey Gardner, hereby depose and declare as follows:

1. I was employed by Cryovac, Inc. as a Vice President of Sales for North America in December 2003 and January 2004.
2. When National Beef sent its January 14, 2004 to e-mail Cryovac, the parties had negotiated a document that included the quantity, price, and the type of products to be supplied, along with the other essential terms of an agreement.
3. Approximately 2 ½ hours after Cryovac received the National Beef e-mail on January 14, 2004, I responded with an confirming e-mail that stated

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 5th day of April, 2005,



Jeffrey Gardner

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2005, I caused to be electronically filed a true and correct copy of notice of the foregoing sealed document with the Clerk of the Court using CM/ECF, which will send notification that such notice is available for viewing and downloading to the following counsel of record:

N. Richard Powers, Esquire
Connolly Bove Lodge & Hutz LLP
The Nemours Building
1007 North Orange Street
P. O. Box 2207
Wilmington, DE 19899

I further certify that on April 12, 2005, I caused a copy of the foregoing sealed document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated.

BY FEDERAL EXPRESS

Steven R. Trybus, Esquire
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Attorneys for Plaintiff Cryovac, Inc.

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